

Before the  
**FEDERAL COMMUNICATIONS COMMISSION,,**  
**Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Revision of the Commission's Rules to	)	CC Docket No. 94-102
Ensure Compatibility With Enhanced 911	)	
Emergency Calling Systems	)	
	)	
Amendment of Parts 2 and 25 to Implement the	)	IB Docket No. 99-67
Global Mobile Personal Communications by	)	
Satellite (BMPCS) Memorandum of	)	
Understanding and Arrangements, Petition of the	)	
National Telecommunications and Information	)	
Administration to Amend Part 25 of the	)	
Commission's Rules to Establish Emissions	)	
Limits for Mobile and Portable Earth Stations	)	
Operating in the 1610-1660.5 MHz Band	)	

To: The Commission

REPLY COMMENTS

Mobex Network Services, LLC (Mobex) hereby submits its Reply Comments in the above captioned matter. In support of its position, **Mobex** shows the following.

American Mobile Telecommunications Association, Inc. (AMTA) supported and correctly applied to Automated Maritime Telecommunications Systems (AMTS) the four general criteria proposed by the Commission at paragraph 12 of its Further Notice of Proposed Rulemaking. AMTA accurately observed that "AMTS maritime offerings do not coinpete with traditional CMKS or wireline local exchange services and users of the system do not have any expectation of accessing, or need to access, 911 service," AMTA Comments at 5, **and** reasonably concluded that no E911 obligation should be imposed. AMTA's analysis was also correct with respect to the service which AMTS provides to users while they are on land

Mohex also commends to the Commission the comments of Motorola, Inc. Motorola was entirely correct in stating that

AMTS service providers, consistent with the description in the E911 First Report and Order, provide primarily specialized radio communications to a very select customer base. The majority of current communications in this service are system communications for navigable waterways throughout the United States to cargo ships and other types of maritime traffic. These communications are very much dispatch services and should not be construed as competitive with cellular, PCS, or "covered" SMR operations. Further, as discussed in detail above, AMTS dispatch communications are not technically capable of providing 911 and E911 capabilities to subscribers. The FCC should not extend its rules to try to supplant these approaches,

Motorola Comments at 11

While AMTA and Motorola recognized the impracticability of imposing 911 or E911 requirements on AMTS, two commenters unreasonably urged the Commission to disregard matters of technical or operational feasibility. Association of Public-Safety Communications Officials-International, Inc. (APCO) suggested that the Commission "should eliminate its initial examination of whether the service is technically and operationally feasible to provide enhanced 911," APCO Comments at 4. APCO further suggested that "any proponent of service seeking to compete in the voice service market should be required to commit the investment to integrate to enhanced 911," APCO at 4-5. Similarly, Washington State Enhanced 911 Program (WSEP) suggested that "when the fourth question asks if integration is technically and operationally feasible it discounts the potential of advanced technology to solve problems," WSEP Comments at 1.

The approach of APCO and WSEP of "we don't care whether it's technically or operationally or economically feasible — just do it" was not reasonable on its face. A service cannot be provided unless it is technically feasible and a service will not be provided if it is not operationally or economically feasible. The Commission correctly recognized in its FNPRM that multiple general criteria must be considered. However desirable one facet of a result might be, the totality of an action must be considered. There would be no point to the Commission's imposing a requirement without having evidence of record that the intended result can be achieved.<sup>1</sup> There would also be no point to the Commission's imposing a requirement if the actual consequence would be destructive of service.

AMTS is not a service on which the Commission should impose 911 or E911 requirements. AMTS does not meet the Commission's definition of a covered SMR system and Mobex does not expect that its AMTS service will ever meet that definition. Moreover, Mobex demonstrated in its comments that it does not meet any of the Commission's four general criteria for imposing a 911 or E911 requirement.

As Mobex has shown in its initial Comments, AMTS is a unique service of limited scope. To serve waterways and coasts, AMTS is necessarily a ribbon system and the economics of the service dictate the use of large cells which cover multiple local jurisdictions. Costs are high. The

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<sup>1</sup> In the matter of Electronic Industries Association v. FCC, the United States Court of Appeals for the District of Columbia Circuit held that the Commission "may not reach beyond present capabilities to compel a solution by rulemaking," EIA v. FCC, 636 F.2d 689, 698 (D.C. Cir. 1980).

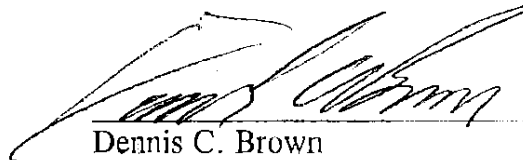
charge to the end user is not and cannot be competitive with other CMRS services. Mobex users have no expectation of 911 or E911 service and maritime users have no need of it. Mobex cannot conceive of a business plan which would allow it to modify its system only to provide 911 or E911 service to units on land.

The cost to rebuild Mobex's system to provide 911 or E911 service, even if spread across both maritime and land users, would be so great that the resulting increase in charges to end users would, without doubt, so reduce marketability that Mobex would be forced to terminate its AMTS service. Since the commencement of the instant proceeding, Mobex's largest customer, American Commercial Lines LLC, filed a petition to reorganize under Chapter 11 of the Bankruptcy Code. With its largest customer in this financial position, the Commission could not reasonably expect Mobex to invest the resources which would be necessary to provide 911 or E911 service.

Conclusion

For all the foregoing reasons, Mohex respectfully requests that the Commission continue to exempt **AMTS** from any requirement to provide 911 or E911 service.

Respectfully submitted,  
MOBEX NETWORK SERVICES, LLC

A handwritten signature in black ink, appearing to read "Dennis C. Brown", is written over a horizontal line.

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Dated: March 25, 2003